
EXECUTIVE SUMMARY

The review of the Ethiopia-Australia intercountry adoption program was undertaken in accordance with the Australian Central Authority's obligation, pursuant to the Commonwealth-State Agreement, to conduct regular reviews of its programs to ensure compliance with the *Hague Convention on the Protection of Children and Co-operation in respect of Intercountry Adoption* (the Hague Convention). The review commenced in June 2009. Prior to the completion of the review, the Attorney-General suspended the program due to ongoing concerns and new developments with the program. The outcome of this review will determine the future of the program.

The review is separated into four parts. Part One examines the background of the program and intercountry adoption in Ethiopia generally. Part Two examines the specific concerns with the program which led to the recent suspension of the program. Part Three assesses the program's compliance with Hague Convention obligations, and potential solutions to strengthen that compliance. Part Four discusses a possible framework that could be put in place if the program were to remain open, and makes recommendations regarding the future of the program.

Finally, the review recommends that the Attorney-General lift the current suspension of the program and approve the Attorney-General's Department (AGD) to begin strengthening the structure of the program, to ensure compliance with the Hague Convention and safeguards for the protection of children. It is recommended that the program become operational again on 6 April 2010, after some initial adjustments have been made to ensure Hague compliance. Further work will be required to ensure the long-term viability and compliance of the program (for example, establishing a new Memorandum of Understanding with the Ethiopian Government).

Specific concerns about the current (and past) operation of the Ethiopia-Australia program

The review found that the Ethiopia-Australia program has, in some respects, been operating in a manner which is inconsistent with Australia's understanding of its Hague Convention obligations, but also outside the expectations of the Ethiopian Government.

The primary concern is that the program has been receiving referrals of children due to ad hoc assistance being provided directly to orphanages, rather than through a formal framework which is open, transparent and regulated by Government. It is clear that this situation has been perpetuated due to insufficient funding for the program to meet the contemporary expectations of the Ethiopian Government.

There have also been ongoing concerns about the integrity of the program in Ethiopia, which have been highlighted in recent media, as well as through practical observations by AGD and the Australian States and Territories. These concerns have included some instances of inadequate documentation regarding children's backgrounds and a rapid increase in the number of children referred for intercountry adoption worldwide, which does not reflect the global downturn in intercountry adoptions elsewhere.

Development assistance projects

The Ethiopian Government has had an expectation for several years that receiving countries provide contributions to the communities in which the adopted children previously resided, to assist families to remain together in Ethiopia. Receiving countries are expected to enter into agreements with

various levels of the Ethiopian Government to engage in development assistance and community sponsorship projects. Projects may include micro-financing for single mothers, disabled and poor people, reintegration projects and sponsorship programs to enable children to go to school. These agreements are created formally with lower levels of government in Ethiopia. Where receiving countries do not establish such agreements, regional governments in Ethiopia are less willing to refer children in need of adoption to the country's program/partner orphanages.

Australia has not been formally meeting this requirement due to its status as the only program governed by a bilateral agreement. Australia has previously been exempt from entering into agreements to provide development assistance due to this government-to-government bilateral agreement. Given the practical requirement for these agreements to be in place for children to be referred to the program, the program has only survived for the past few years due to donations from families being provided directly to orphanages. This has resulted in funds and goods in kind, which have not been reported or transparent, being paid directly to orphanages. This has created a link between funding and referrals of children. This practice is unsatisfactory, and inconsistent with the Australian Government's understanding of the principles of the Hague Convention or the Hague Permanent Bureau's *Guide to Good Practice*.

It is also clear that fees paid by adoptive parents have been insufficient to cover the program's running costs.

Assessment of the program against the Hague Convention

The review assesses the current operation of the program against primary Hague Convention obligations, such as safeguards to prevent the sale and trafficking of children, the subsidiarity principle, the prevention of improper financial gain, the prevention of pre-placement contact by adoptive parents and cooperation between central authorities.

The review found that, in its current form, the program may not be meeting Australia's Hague Convention obligations, for the reasons outlined above. However, the review identified measures that can be undertaken to address these concerns, and that there is a mutual commitment between Ethiopia and Australia to continue our bilateral arrangement and to accommodate requirements and procedures we see as necessary to ensure Australia meets its obligations.

Findings and recommendations

This part of the review discusses the options for the program and recommends that the suspension be lifted and the program continue with significant changes to the existing framework. This will necessitate, but is not limited to, the following:

- Undertaking additional background checks of children referred to the program
- establishing relationships with specific orphanages in which AGD has trust and confidence
- entering into formal, government regulated agreements to provide broad development assistance and community sponsorship programs, for projects unrelated to intercountry adoption
- setting a formal, fixed, transparent child maintenance fee for payment to orphanages for the reasonable costs of caring for the child (similar fees are charged in a Hague-compliant manner in some of Australia's other intercountry adoption programs)

- negotiating a new MOU with the Ethiopian Government and a new Service Agreement with the Australian Representative, and
- increasing fees for prospective adoptive parents to finance the new program arrangements.

The objectives of the new framework are to establish a more efficient program and ensure compliance with the Hague Convention. AGD will be required to undertake further investigations, but intends to have such a framework in place as quickly as possible. In the short term, the program can operate, with some minor adjustments, in a Hague-compliant manner before the new framework is fully in place. It is therefore intended that the suspension be lifted from 6 April 2010.